

House Research Act Summary

CHAPTER: 219

SESSION: 2008 Regular Session

TOPIC: Ombudsman for Mental Health and Developmental Disabilities

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Overview

This bill allows the Ombudsman for Mental Health and Developmental Disabilities to have access to and make copies of the medical records of deceased clients who had received services from an agency, facility, or program. It designates the Ombudsman as a “health oversight agency” under HIPAA.

Section

- 1 **Client.** Amends §245.91, subdivision 3. Adds that the definition of “client” includes a now deceased person who had received services from an agency, facility, or program.
- 2 **Gather.** Amends §245.91, by adding subdivision 4a. Defines “gather” as having access to information or data for purposes of inspection and to receive copies of information or data.
- 3 **Office of Ombudsman; creation; qualifications; function.** Amends §245.92. Adds the word “data” thereby allowing the ombudsman to gather information and data.
- 4 **Powers.** Amends §245.94, subdivision 1. Adds that the ombudsman is a health oversight agency as defined in the Code of Federal Regulations, title 45, section 164.501. This reference to federal HIPAA regulations. It defines “health oversight agency” as “an agency or authority of the United States, a state, a territory, a political subdivision. . . that is authorized by law to oversee the health care system or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.”

Requires the ombudsman to maintain all data collected, created, or received in compliance with chapter 13 (Government Data Practices) and other applicable law.

Strikes “have access to” and inserts “gather.” This change permits the ombudsman to inspect and receive copies of data held by agencies, facilities, or programs classified as private or confidential, related to persons with developmental disabilities.

- 5** **Mandatory reporting.** Amends §245.94, subdivision 2a. Adds that the ombudsman is authorized to receive identifying information about a deceased client according to the Code of Federal Regulations, title 42, section 2.15, paragraph (b). This reference to federal regulation is related to the confidentiality of alcohol and drug abuse patient records.
- 6** **Medical review subcommittee.** Amends §245.97, subdivision 5. Permits the medical review subcommittee to have access to private and confidential data collected or created by the ombudsman as is necessary to fulfill its duties.